

LAW OFFICES OF  
LOUIS E. GITOMER

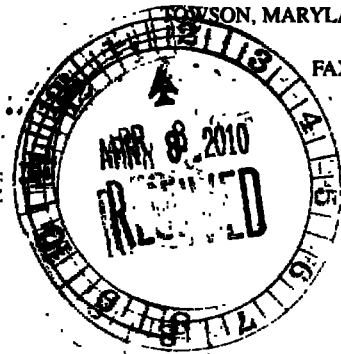
LOUIS E. GITOMER  
LOU\_GITOMER@VERIZON.NET

MELANIE B. YASBIN  
MELANIE@LGRAILLAW.COM

226785  
THE ADAMS BUILDING, SUITE 301  
600 BALTIMORE AVENUE  
TOWSON, MARYLAND 21204-4022  
(202) 466-6532  
FAX (410) 332-0885

April 8, 2010

Ms. Cynthia T. Brown  
Chief of the Section of Administration, Office of Proceedings  
Surface Transportation Board  
395 E Street, S.W.  
Washington, D. C. 20423



RE: Finance Docket No. 35369. *City of Temple, TX—Acquisition and Operation  
Exemption—Georgetown Railroad Company*

Dear Ms. Brown:

Enclosed for filing are the original and 10 copies of a Verified Notice of Exemption under 49 C.F.R. 1150.31, a check covering the \$1,800.00 filing fee, and a CD with the file Notice of Exemption.

Please time and date stamp the extra copy of this letter and the Verified Notice of Exemption and return them with our messenger. Thank you for your assistance.

If you have any questions, please call or email me.

Sincerely yours

Melanie B. Yasbin  
Attorney for: City of Temple, TX

ENTERED  
Office of Proceedings  
APR - 8 2010  
Part of  
Public Record

Enclosures

FEE RECEIVED  
APR - 8 2010  
SURFACE  
TRANSPORTATION BOARD

FILED  
APR - 8 2010  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35369

CITY OF TEMPLE, TX—ACQUISITION AND OPERATION EXEMPTION—  
GEORGETOWN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.



ENTERED  
Office of Proceedings  
APR - 8 2010  
Part of  
Public Record

**FEE RECEIVED**  
APR - 8 2010  
SURFACE  
TRANSPORTATION BOARD

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue  
Suite 301  
Towson, MD 21204  
(202) 466-6532

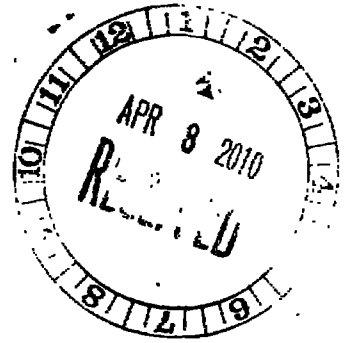
Attorney for CITY OF TEMPLE, TX

Dated: April 8, 2010

**FILED**  
APR - 8 2010  
SURFACE  
TRANSPORTATION BOARD

BEFORE THE  
SURFACE TRANSPORTATION BOARD

FINANCE DOCKET NO. 35369



CITY OF TEMPLE, TX—ACQUISITION AND OPERATION EXEMPTION—  
GEORGETOWN RAILROAD COMPANY

VERIFIED NOTICE OF EXEMPTION  
Pursuant to 49 C.F.R. § 1150.31, Et Seq.

The City of Temple, TX (“Temple”), a noncarrier, files this Notice of Exemption, pursuant to 49 C.F.R. Part 1150, Subpart D – Exempt Transactions, with the Surface Transportation Board (the “Board”) to permit Temple to acquire and operate over about 6.277 miles of rail line between near Belton, TX, milepost 0.0, and Smith, TX, milepost 6.277, in Bell County, TX (the “Line”), and the trackage rights granted to the Georgetown Railroad Company (“Georgetown”) to operate over the Line. There is no traffic on the Line, and there has not been any traffic for at least 20 years. Temple is acquiring the Line in order to construct a water pipe line beneath the surface. Once the water pipe line is completed, Temple intends to convert the Line into a trail by following the process necessary to make use of 16 U.S.C. §1247(d) and 49 C.F.R. §1152.29.

In support of this Notice of Exemption, Temple submits the following information as required by 49 C.F.R. § 1150.33:

a. Full name and address of applicant:

City of Temple

2 North Main Street, Suite 306  
Temple, TX 76501  
(254) 298-5674

b. Applicant's Representative:

Louis E. Gitomer, Esq.  
Law Offices of Louis E. Gitomer LLC  
600 Baltimore Avenue, Suite 301  
Towson, MD 21204  
(202) 466-6532  
Lou\_Gitomer@verizon.net

c. Temple and the Georgetown Railroad company ("Georgetown") have agreed to the terms of a Purchase and Sale Agreement, which will be executed prior to the consummation date.

d. In the unlikely event that there is demand for service after 20 years, Temple will hold itself out to provide common carrier service, but will contract with a third party to perform the actual service under Temple's control and direction.<sup>1</sup>

e. Summary of proposed transaction:

1. The name and address of the railroad transferring the property is:

Georgetown Railroad Company  
P.O. Box 1000  
Georgetown, TX 78627

---

<sup>1</sup> See, e.g. *Delphos Terminal Company, Inc.—Acquisition and Operation Exemption—Indiana Hi-Rail Corporation*, STB Finance Docket No. 33496 (STB served Oct. 31, 1997).

Georgetown acquired the Line from the Belton Railroad Company ("Belton") in 1991.

*Georgetown Railroad Company-Acquisition & Operation Exemption-Belton Railroad Company.*

ICC Finance Docket No. 31856 (ICC served May 21, 1991). Belton also granted Georgetown the trackage rights that are being assigned to Temple. *Georgetown Railroad Company-Trackage Rights Exemption-Belton Railroad Company.* ICC Finance Docket No. 31857 (ICC served April 1, 1991).

2. The proposed time schedule for the consummation of the transaction is on or after May 8, 2010.

3. The mileposts of the subject property, including any branch lines. The Line is 6.277 miles and runs between near Belton, TX, milepost 0.0, and Smith, TX, milepost 6.277, in Bell County, TX.

4. Temple will own the Line and will operate over it as a common carrier railroad, if necessary.

f. A color map of the Line is attached as Exhibit C.

g. A Certificate of Compliance with the provisions of 49 CFR § 1150.33(g) is attached as Exhibit A.

h. There are no interchange commitments or paper barriers in the Purchase and Sale Agreement between Temple and Georgetown.

i. A caption summary, as required by 49 C.F.R. §1150.34, is attached as Exhibit B.

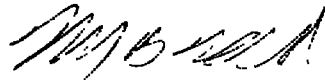
j. No environmental documentation is required because there will be no operational changes that would exceed the thresholds established in 49 CFR §1105.7(e)(4) or (5) and there will be no action that would normally require environmental documentation. Hence, this Notice of

Exemption does not require environmental documentation under 49 CFR §1105.6(b)(4) and (c)(2)(i).

k. An historic report is not required because Temple will operate the Line, if necessary, will require further Board approval as required to discontinue and abandon any service, and there are no plans to dispose of or alter properties subject to Board jurisdiction that are 50 years old or older. Hence, this Notice of Exemption does not require an historic report under 49 C.F.R. §1105.8(b)(1).

This action will not significantly affect either the quality of the human environment or energy conservation.

Respectfully submitted,



Louis E. Gitomer, Esq.  
Melanie B. Yasbin, Esq.  
Law Offices of Louis E. Gitomer  
600 Baltimore Avenue  
Suite 301  
Towson, MD 21204  
(202) 466-6532

Attorney for CITY OF TEMPLE, TX

Dated: April 8, 2010

# **EXHIBIT A- CERTIFICATION AND VERIFICATION**


**CERTIFICATION**

State of Texas           )  
                                  ) ss:  
County of Bell           )

I, Jonathan Graham, being duly sworn, deposes and says that he is City Attorney of the City of Temple, TX, a home rule city in Bell County, TX, and that the projected annual revenues from the rail operations would not exceed those that would make it a Class III carrier under 49 CFR Part 1201(1-1) and would not exceed \$ 5 million.

  
Jonathan Graham

Subscribed and sworn to before me this 7<sup>th</sup> day of April 2010.

  
Notary Public



7/10/11



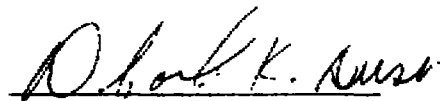
VERIFICATION

State of Texas        )  
                              ) ss:  
County of Bell        )

I, Jonathan Graham, being duly sworn, deposes and says that he is City Attorney of the City of Temple, TX, a home rule city in Bell County, TX, and that I have read the foregoing notice of exemption and know the facts asserted therein are true and accurate as stated to the best of my knowledge, information and belief.

  
Jonathan Graham

Subscribed and sworn to before me this 7<sup>th</sup> day of April 2010.

  
Notary Public



# **EXHIBIT B – CAPTION SUMMARY**

**SURFACE TRANSPORTATION BOARD**

**Notice of Exemption**

**FINANCE DOCKET NO. 35369**

**CITY OF TEMPLE, TX—ACQUISITION AND OPERATION EXEMPTION—  
GEORGETOWN RAILROAD COMPANY**

The City of Temple, TX has filed a notice of exemption to acquire and operate over about 6.277 miles of rail line between near Belton, TX, milepost 0.0, and Smith, TX, milepost 6.277, in Bell County, TX (the "Line"), and the trackage rights granted to the Georgetown Railroad Company to operate over the Line.

The transaction is scheduled to take place on or after May 8, 2010.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 35369, must be filed with the Surface Transportation Board, 395 E Street, S.W., Washington, DC 20423-0001. In addition, a copy of each pleading must be served on Louis E. Gitomer, Esq., Law Offices of Louis E. Gitomer, 600 Baltimore Avenue, Suite 301, Towson, MD 21204, (202) 466-6532, Lou\_Gitomer@verizon.net.

Board decisions and notices are available on our website at "WWW.STB.DOT.GOV."

Decided: April \_\_, 2010.

By the Board, Rachel D. Campbell, Director, Office of Proceedings.

# **EXHIBIT C-MAP**

